



Additionally, plaintiff continues to ignore the Third Circuit precedent cited in PHS's prior brief, *Rhodes v. Diamond*, 433 Fed. Appx. 78, 2011 WL 1591495 (3d Cir. 2011) (where PHS was also a defendant). *Rhodes* specifically holds that any actions taken by PHS in connection with a Bankruptcy Court proceeding are not actionable under the FDCPA or under state law. The Third Circuit affirmed "the Bankruptcy Code preempts state law claims allegedly arising from an abusive bankruptcy filing or *other wrongful conduct* committed during the course of a bankruptcy case." *Id.* at 80 (*quoting In re Pariseau*, 395 B.R. 492, 495 (Bankr. M.D. Fla. 2008) (emphasis added)). The alleged wrongful conduct here all occurred in connection with, and arises out of, plaintiff's bankruptcy proceeding.

Additionally, plaintiff's claim that PHS committed an "abuse of process" by "keeping alive" the foreclosure proceeding still fails to pass muster under Federal Rule of Civil Procedure 11. Plaintiff's statute of limitations problem remains, as noted by both PHS and GMAC. The statute of limitations for abuse of process is two years, whereas the foreclosure proceeding has been inactive since 2005. 42 Pa.C.S. § 5501, et seq. Moreover, PHS is not a party to the foreclosure proceeding, only counsel of record. There can be no "abuse of process" by PHS, and actions taken as counsel by PHS in the foreclosure proceeding do not give rise to tort claims against PHS because PHS is protected by the judicial privilege. *Env. Tectonics Corp. v. Walt Disney World Co.*, No. 05-6412, 2008 WL 821065, at \*17, n. 35 (E.D.Pa. Mar. 26, 2008).

Respectfully submitted,

By: /s/

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